

Appl. No. 10/091,218  
Amdt. Dated December 31, 2004  
Reply to Office Action of Oct. 4, 2003

**REMARKS/ARGUMENTS**

Reconsideration of this patent application is respectfully requested in view of the foregoing amendments and the following remarks.

The specification has been amended at pages 4 and 5 to correct typographical errors relating to references cited therein. The proper references as listed in the corrected specification, U.S. 5,529,369 and DE 43 15 824, are already of record in the pending application.

The specification has further been amended to more clearly describe features of the invention disclosed in corrected drawing Figs. 1 and 2 submitted herewith. In particular, reference numeral 91, which corresponds to the snap bolt or rotary drop lock depicted in Fig. 1 has been added. Additionally, the description of Fig. 2 has been amended to describe the angle of inclination of hinge fastening 8, the driver shoulder point, hip point and knee point and the seat reference point.

Appl. No. 10/091,218  
Amdt. Dated December 31, 2004  
Reply to Office Action of Oct. 4, 2003.

Claims 1-8 have been canceled without prejudice. New claims 9-19 have been added.

The Examiner has objected to the drawings for not showing every feature claimed. Corrected drawing Figs. 1 and 2 are submitted herewith. The specification has been amended in accordance with the corrected drawing figures.

Applicant notes that the snap bolt and rotary drop lock recited in new claims 13 and 14, respectively (former claims 5 and 6) are depicted in corrected Fig. 1 as indicated by reference numeral 91. Former claim 3 which included the feature of the support being automatically locked has been rewritten as claim 11, which provides that automatic locking of support 5 is accomplished through a hinge fastening arranged at an upward incline. Upwardly inclined hinge fastening 8 is shown in Figs. 1 and 2 and angle of inclination  $\alpha$  is shown in Fig. 2. New claim 17 provides that bows are coupled to the rear strut of the vehicle via a hinge. This is shown in Fig. 1. New claim 18 provides that bows are secured directly to a support as shown, for example, in Fig. 2.

The Examiner has rejected claims 3-8 as failing to comply with the enablement requirement of 35 U.S.C. § 112. As noted above, former claim 3 has been rewritten as claim 11, which provides that automatic locking of support 5 is accomplished through a hinge fastening arranged at an upward incline. Due to the upwardly inclined orientation of the hinge, support 5 must pivot upwardly when opened. When released, the force of gravity causes support 5 to automatically swing into a closed position where it is locked by locking system 9. This feature is described in the specification at page 8 and depicted in Figs. 1 and 2.

As noted above, new claim 17 and 18 have been added to more clearly set forth the invention with respect to the coupling of the bows to the rear strut via a hinge or directly to the support. The specification has been amended to more clearly explain the features depicted in drawing Fig. 2. Former claims 7 and 8 have been rewritten as new claims 15 and 16 respectively.

The Examiner has rejected claims 1-8 as being indefinite under 35 U.S.C. § 112. Applicant believes that the lack of antecedent basis and clarity issues noted at page 4 of the October 4, 2003 Office Action are resolved by the new claims.

Claims 1-4 and 6-8 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 2,682,427 to Bright. Claims 1-4 and 6-8 were also rejected under 35 U.S.C. § 103 as being unpatentable over U.S. patent No. 5,529,369 to Welborn. Claim 5 was rejected under 35 U.S.C. § 103 as being unpatentable over Bright in view of U.S. Patent No. 4,392,669 to Martin Jr. and Welborn in view of Martin Jr.

The rejections under 35 U.S.C. § 103 are respectfully traversed.

Bright discloses a removable vehicle door construction comprising a collapsible lightweight frame and a flexible covering. The door construction of Bright serves as weather protection for the operator's compartment of a vehicle. There is no suggestion in Bright that the disclosed door construction could serve as a retaining device for preventing a driver from falling out of the vehicle due to centrifugal force, as recited in independent claim 9 of the present application. The door construction of Bright is characterized as being extremely light in weight, indicating that it would be incapable of supporting the loads associated with preventing a driver from falling out of the

vehicle.

Additionally, Bright does not disclose a support extending approximately horizontally along and dividing the open sides of the vehicle as recited in claim 9. Rod 74 of Bright serves as a diagonally disposed reinforcing strut (see col. 5 lines 32-36) and, as seen in Fig. 2 of Bright, does not extend approximately horizontally as required by claim 9 but rather extends diagonally from a bottom portion of a front element of the door frame to a lower portion of a rear element of the door frame. Rod 74 pivots along with the entire door frame assembly unlike the present invention as claimed in claim 9 wherein a support pivots directly on a hinge on a rear strut.

Furthermore, Bright does not disclose a vehicle having open sides and a roof or canopy guard having front and rear struts as recited in independent claim 9 of the present application. The vertical door post 50 of Bright merely clips on to horizontal member 47, as shown in Fig. 11. Additionally, U-shaped channel member 26 of Bright is coupled only to the windshield frame. Neither of these comprise the front and rear struts of a roof or canopy guard which protect the driver from falling out of the

vehicle in the event of overturning, as recited in claim 9.

Claim 10 of the present application recites an upper bow and a lower bow coupled to a support and extending spaced apart from the support. Bright does not disclose an upper or lower bow coupled to a support. Rods 62, 72, 80 and 86 of Bright form a door frame and are not part of a retaining system as claimed in the present application.

The device disclosed in Bright is a closed door construction. This is in direct contrast to the open side construction and associated advantages, such as increased mobility for the driver, as disclosed in the present invention.

Welborn discloses a door latch assembly for golf carts or like vehicles. As with Bright, the structure disclosed in Welborn is a closed door construction and does not relate to a retaining device for an open-sided vehicle. There is no indication that central member 52 of the door frame of Welborn could serve as a retaining device for preventing a driver from falling out of the vehicle due to centrifugal force, as recited in independent claim 9 of the present application. As depicted in Fig. 1 of Welborn,

the seat reference point (SRP) is behind the disclosed door frame assembly. Accordingly, the structure disclosed in Welborn would not function to prevent a driver or passenger from falling out of the vehicle due to centrifugal force because the driver or passenger is situated substantially behind the door frame assembly.

Martin Jr. was cited as disclosing a locking system comprising a snap bolt. Martin Jr. discloses a cab for a forklift truck wherein the windshield is hinged so that it may be swung out and the steering column displaced for removal or repair of the forklift batteries. The cab of the vehicle of Martin Jr. is enclosed. Martin Jr. does not teach a retaining device, but rather a closed cab vehicle having side door panels 41.

As detailed above, none of the references cited, either alone or in combination, disclose the features of the claimed invention.

The applicant believes that the remaining claims are written to overcome the rejections of the Examiner. Accordingly, the applicant respectfully requests early allowance of the remaining claims.

Appl. No. 10/091,218  
Amdt. Dated December 31, 2004  
Reply to Office Action of Oct. 4, 2003

Respectfully submitted,

BORIS SEBASTIAN HEINRICH SCHNEIDER -1 (CIP)

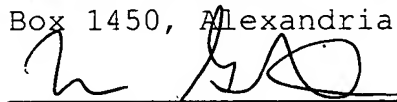


Allison C. Collard, Reg. No. 22,532  
Edward R. Freedman, Reg. No. 26,048  
Elizabeth Collard Richter, Reg. No. 35,103  
Attorney for Applicant

COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
(516) 365-9802

ECR:EJC:kkw  
Enclosure: Attachment A

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: MAIL STOP ~~100~~ FEE AMENDMENT, Commissioner of Patents, U.S. PTO, P.O. Box 1450, Alexandria, VA 22313-1450, on December 31, 2003.



Maria Guastella

R:\Patents\S\SCHNEIDER B-1 (CIP)\Amend1st OA .wpd  
kkw